

HOUSE BILL 2396
By Niceley

AN ACT to authorize Jefferson County to levy and collect a privilege tax on new residential, industrial and commercial development in the County in order to provide that new residential, industrial and commercial development contribute its fair share of the cost of providing public facilities and services made necessary by such new development.

WHEREAS, Jefferson County is experiencing considerable growth in population and need for services and public facilities; and

WHEREAS, Jefferson County is in need of additional revenue with which to fund its capital improvement program to meet the needs of its growing citizenry; and

WHEREAS, a privilege tax on new development is a fair and equitable way to raise funds to meet the demand for additional public facilities; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the Jefferson County Adequate Facilities Tax.

SECTION 2. As used in this act, unless a different meaning clearly appears from the context:

(1) "Board of zoning appeals" means the Board established in Jefferson County pursuant to Tennessee Code Annotated, Section 13-7-106.

(2) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home.

(3) "Compliance officer" means the person designated by resolution of the governing body of Jefferson County, who shall be responsible for issuing building permits, enforcing compliance with this resolution, and collecting tax monies.

(4) "Building permit" means a permit for development issued in Jefferson County, whether by the county or any city therein.

(5) "Commercial" means the development of any property for commercial use, except as may be exempted by this act.

(6) "Development" means the construction, building, erection, or improvement to land providing a new building or structure, which provides floor area for residential, commercial or industrial use.

(7) "Dwelling unit" means a room or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, on a daily, weekly, monthly, or long-term basis; physically separated from any other room or rooms or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(8) "Floor area" means the total of the gross horizontal area of all floors, including basements, cellars or attics, which is heated and/or air conditioned living space, or designed to be finished into heated and/or air conditioned living space at a future date.

(9) "Governing body" means the county commission of Jefferson County.

(10) "Industrial" means the development of any property for the purpose of manufacturing a product for retail or wholesale distribution.

(11) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, in the plural as well as the singular number.

(12) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented, or used by persons who do not have tax-exempt status.

(13) "Public building" means a building owned by the state or any agency thereof, a political subdivision of the state, including, but not necessarily limited to, counties,

cities, school districts, and special districts, or the federal government or any agency thereof.

(14) "Public facility or facilities" means a physical improvement undertaken by the county or city, including, but not limited to, the following: roads and bridges, parks and recreational facilities, jails and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities, and any other governmental capital improvement benefiting the citizens of the county and/or city as defined in Tennessee Code Annotated, section 9-21-105(21) (A) and/or (B).

(15) "Residential" means the development of any property for a dwelling unit or units.

SECTION 3. It is the intent and purpose of this act to authorize Jefferson County to impose a tax on new development in the county, payable at the time of issuance of a building permit, so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of new development in Jefferson County, except as provided in Section 6 herein, is declared to be a privilege upon which Jefferson County may, by resolution of the governing body of Jefferson County, levy a tax at the rate set forth in Section 7.

SECTION 5. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations, and forms necessary to properly implement, administer, and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

- (a) Public buildings;
- (b) Places of worship;
- (c) Barns, outbuildings, or accessory structures used for agricultural or residential purposes;
- (d) Replacement structures for previously existing structures destroyed by fire or other disasters, but only if replaced within one (1) year of the loss;

(e) A structure owned by a nonprofit organization that is a qualified 501(c) (3) corporation under the Internal Revenue Code;

(f) A permanent residential structure replacing a single-wide or double-wide mobile home on the same parcel when the mobile home is removed within thirty (30) days following the initial occupancy of the permanent residential structure, providing that the permanent structure is a residence for the owner and occupant of the mobile home; or

(g) A double-wide mobile home replacing a single-wide mobile home on the same parcel where the single-wide mobile home is removed within thirty (30) days following the initial occupancy of the double-wide mobile home, providing that the double-wide mobile home is a residence for the owner and occupant of the singlewide mobile home.

SECTION 7. For the exercise of the privilege described herein, Jefferson County may impose a tax on new residential, industrial and commercial development, including residential, industrial and commercial development in incorporated municipalities in the County. The tax shall be in an amount not to exceed fifty cents (50¢) per square foot of floor area for residential buildings and thirty cents (30¢) per square foot of space for commercial and industrial buildings. The initial amount of this tax shall be established by resolution of the governing body of Jefferson County. Such amount may be increased or decreased by resolution of the governing body of Jefferson County, within the maximum limits established by this act.

SECTION 8. The tax established in this act shall be collected at the time of application for a building permit for development as herein defined. The revenue collected from this tax shall be collected by the compliance officer, or other responsible official, and the proceeds deposited with the county trustee and used exclusively for capital improvements and capital projects, including but not limited to, debt service related to such projects in the general fund, school fund, special revenue funds, debt service funds, or other capital project funds as designated by resolution of the board of county commissioners of Jefferson County. If the building permit or certificate of occupancy is issued by a city, the city shall, before issuance of the building permit, require evidence by a valid certificate executed by the compliance officer

that the full amount of the tax due the county is paid. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in Jefferson County, unless the tax has been paid in full to the county. The issuance of a building permit or certificate of occupancy by any city official, without a certificate from the county that the tax has been paid, shall render the city liable to the county for the sum or sums, that would have been collected by the county had the certificate of tax paid been required by the city.

SECTION 9. The authority to impose the privilege tax or taxes on new development in Jefferson County is in addition to all other authority to impose taxes, fees, assessments, or other revenue-raising or land-development regulatory measures granted either by the private or public acts of the state and the imposition of such tax, in addition to any other authorized taxes, fees assessments, or charges, shall not be deemed to constitute double taxation.

SECTION 10.

(a) Any person aggrieved by the decision of the compliance officer or other responsible official concerning any aspect of this act may obtain review of the official's decision in the following manner:

(1) By payment of the disputed amount to Jefferson County and by notifying the official that the payment is made under protest; and

(2) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment.

(b) The Jefferson County board of zoning appeals shall hear all appeals. Hearings shall be scheduled within thirty (30) days of the request for appeal, or at the next regular meeting of the board of zoning appeals, whichever is later.

(c) The board of zoning appeals shall render a decision on all appeals within thirty (30) days of the hearing date, unless the hearing is continued from time to time with a majority vote of the board for further information.

(d) The board of zoning appeals shall act as a quasi-judicial body, whose purpose is to determine the intent of this act, its applicability to the appellant, and to rule upon the interpretation of the official. The board shall not be bound by formal rules of evidence applicable to the various courts of the state.

(e) Hearings before the board shall proceed as follows:

(1) The compliance officer shall explain his or her ruling and the reasons for the ruling.

(2) The appellant shall explain his or her reasons for appealing the ruling.

(3) The board may request further information from any county official, including, but not limited to the county executive, county commissioners, committee members, the county attorney, or the county planning staff. The board shall not have the power of subpoena.

(f) The board shall deliberate and render a decision by a majority vote. Decisions shall be reduced to writing, and copies shall be sent to all parties and shall become a part of the minutes of the board. Decisions of the board of zoning appeals shall be final, except that either the building official or the person aggrieved may seek review of the board's action by certiorari and supersedeas to the chancery court of Jefferson County, provided, that an application to the court is made within sixty (60) days of the written decision of the board.

SECTION 11. All taxes or funds collected under the provisions of this act shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

SECTION 12. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Jefferson County. This act shall be deemed to create an additional and alternative instrument for Jefferson County to impose and collect taxes for the purpose of providing public facilities made necessary by new development in the county and/or any of its cities.

SECTION 13. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Jefferson County before December 31, 2005. Its approval or

non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by such officer to the secretary of state.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 14.